

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JEFF BERRY

§

VS.

§

CIVIL ACTION NO. 1:11cv213

MARK MARTIN

§

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Jeff Berry, an inmate confined at the Federal Correctional Institution at Beaumont, Texas, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus.

The Court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this case. The Magistrate Judge recommends the petition for writ of habeas corpus be dismissed.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Petitioner filed objections to the Report and Recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the Court is of the opinion petitioner's objections are without merit. Petitioner may not challenge his conviction or sentence under 28 U.S.C. § 2241 because his claims do not meet the requirements set forth in *Reyes-Requena v. United States*, 243 F.3d 893 (5th Cir. 2001). Further, the All Writs Act and common law avenues of relief are not available to petitioner. See *Polley v. Jeter*, 202 Fed.Appx. 806 (5th Cir. Oct. 24, 2006).

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and

conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in accordance with the recommendation of the Magistrate Judge.

So **ORDERED** and **SIGNED** this **27** day of **January, 2012**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge